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BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF  
PIONEER MASONRY RESTORATION  
COMPANY,

Appellant,

v.

PUGET SOUND AIR POLLUTION  
CONTROL AGENCY,

Respondent.

PCEB No. 77-113

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

PER CHRIS SMITH:

This matter, the appeal of a \$250 civil penalty for dust emissions allegedly in violation of respondent's Regulation I, Section 9.03(b), was heard by the Pollution Control Hearings Board in Seattle, Washington on November 7, 1977. Chairman W. A. Gissberg presided. Respondent elected a formal hearing.

Appellant Pioneer Masonry Restoration Company was represented by its Vice-President, Watson Vaughn. Respondent was represented by its attorney, Keith D. McGoffin.

1 Witnesses were sworn, and testified. Exhibits were examined.  
2 From testimony heard and exhibits examined, the Pollution Control  
3 Hearings Board makes these

4 FINDINGS OF FACT

5 I

6 Respondent, pursuant to RCW 43.21B.260, has filed with this  
7 Board a certified copy of its Regulation I containing respondent's  
8 regulations and amendments thereto. Official notice thereof is  
9 hereby taken.

10 II

11 On July 26, 1977, appellant, a masonry restoration firm,  
12 caused dust emissions of 100% opacity for six of six minutes.  
13 The emissions resulted from use of a saw to remove mortar from a  
14 brick wall, preparatory to repair and restoration of an apartment  
15 house in Seattle. No method was employed to reduce the quantity  
16 of dust emitted, or to control its dispersion at least 100 feet  
17 from the work site. These emissions were observed by respondent's  
18 inspector, who mailed Notice of Violation No. 14387 to appellant.  
19 A Notice and Order of Civil Penalty, No. 3440 in the amount of  
20 \$250, was subsequently issued to appellant. Appellant appeals  
21 from this penalty.

22 III

23 Any Conclusion of Law hereinafter recited which should be  
24 deemed a Finding of Fact is hereby adopted as such.

25 From these Findings the Pollution Control Hearings Board  
26 comes to these

27 FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

1 CONCLUSIONS OF LAW

2 I

3 In emitting an air contaminant, dust, for more than three  
4 minutes in any one hour, which contaminant is of an opacity  
5 obscuring an observer's view to a degree equal to or greater than  
6 does smoke designated No. 1 on the Ringelmann Chart, appellant  
7 violated Section 9.03(b)(2) of respondent's Regulation I.

8 II

9 Appellant testified that workmen's safety standards do not  
10 allow use of tarpaulins around the scaffold to control dispersal  
11 of dust. Use of water on the work surface is limited by the  
12 hazard of using electrical equipment in that area, and the risk  
13 of moisture penetrating through to wall to the building interior.  
14 Air hammers, with up to 8,000 impacts per minute, are used in  
15 some areas, but produce excessive noise. However, respondent's  
16 inspector testified that saturation of the wall surface will  
17 reduce airborne particulates to an opacity of 20% or less, and  
18 good "housekeeping" practices can contain the heavier particles  
19 which fall out in the immediate area. If these and similar  
20 controls are not utilized, or absent a variance or similar relief,  
21 appellant must expect to incur further penalties or other  
22 enforcement actions. Although the penalty should be affirmed in  
23 amount, its suspension is warranted in the event that appellant  
24 makes application for a variance within 15 days from this date.

25 III

26 Any Finding of Fact which should be deemed a Conclusion of

27 FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

1 Law is hereby adopted as such.

2 From these Conclusions the Pollution Control Hearings Board  
3 makes this

4 ORDER

5 The \$250 civil penalty appealed from is affirmed but suspended  
6 upon condition that appellant file its application with respondent  
7 for a variance within 15 days from this date.

8 DATED this 22<sup>nd</sup> day of November, 1977.

9 POLLUTION CONTROL HEARINGS BOARD

10   
11 W. A. GISSBERG, Chairman

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13 CHRIS SMITH, Member

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15 DAVE J. MOONEY, Member

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26 FINAL FINDINGS OF FACT,  
27 CONCLUSIONS OF LAW  
AND ORDER